

### REMARKS

The office action of July 5, 2006 has been reviewed and these remarks are responsive thereto. Claims 1-22 are pending in the application.

#### *Allowable claims*

Applicant thanks the Examiner for allowing claims 2-4, 16-17 and 20.

#### *Claims 1, 5-15, 18-19 and 21-22*

Claims 1, 5-10, 12, 15, 18, 19 and 21-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,465,277 to Dittrich (Dittrich) in view of U.S. Patent No. 6,402,644 to Stanford et al. (Stanford). Claims 11, 13 and 14 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Dittrich in view of Stanford and further in view of U.S. patent no. 5,098,093 to Dupre (Dupre). Applicant respectfully requests reconsideration and allowance of these claims.

*1. The proposed modification to Dittrich would destroy its intended functionality and, thus, would not have been obvious to one of ordinary skill in the art.*

It is well grounded that a proposed modification to a reference would not have been obvious if it destroys its intended function. *See e.g., In Re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984).

The Office Action proposes to modify the Dittrich basketball goal system to include a compression gas spring. Office Action, page 3, lines 20-21. The Office Action fails to explain how this would be accomplished. Presumably, the proposed modification would include modifying Dittrich to replace either dampener (56) or coil spring (55) with a compression gas spring that would both dampen shocks and provide an upward bias.

Applicants respectfully submit that doing so would destroy the intended functionality of Dittrich, as the compression gas spring would not provide the unbiased damping of the Dittrich shock absorber (56) nor would it provide the undamped bias of the Dittrich coil spring (55). If Dittrich were modified as suggested by the Examiner to replace either coil spring (55) or shock absorber (56) with a gas shock or a compression gas spring that provided both damping and biasing forces, then the Dittrich system would be overly-damped or overly-biased by the dual

purpose component in addition to the second component. Moreover, such a modification would obviate the need for the second component in the Dittrich system. Thus, the proposed modification would not have been obvious and there is no motivation to modify Dittrich in such a manner.

For at least this reason, Applicant respectfully submits that independent claims 1 and 15 and claim 5-14, 18-19 and 21-22 depending therefrom, are allowable over Dittrich in view of Stanford or Dittrich in view of Stanford and further in view of Dupre.

*2. The cited prior art fails to teach or suggest every feature of the claimed invention.*

The Office Action asserts that Dittrich teaches “a shock-absorbing mechanism (56) for absorbing substantially downward shocks to the neck by permitting movement of the neck (34, and 35) from an original position and returning the neck (24) to the original position, the shock-absorbing mechanism providing the sole upward force at the distal end of the neck for maintaining the neck in the original position (fig. 5-7).” Emphasis added. Office Action, page 2, line 18 to page 3, line 3. Applicant respectfully disagrees with this interpretation of Dittrich.

Shock mechanism (56) of Dittrich is a simple shock absorber that provides damping during slam dunk play and provides no force whatsoever to return the neck to the original position. Dittrich specifically states, “Elevational displacement of the hoop is damped by a shock absorber 56.” Col. 5, lines 9-11. Dittrich teaches that it is the coil spring (55) that provides the force to return the neck to the original position. See e.g., Abstract, col. 2, lines 5-9, and col. 5, lines 3-22. The Office Action makes no mention of spring (55) as the biasing member that returns the neck to its original position, yet this is what Dittrich clearly states throughout its teachings.

Spring/resilient member (55) and shock absorber (56) in Dittrich together provide the ability to dampen shocks and to return the hoop to the horizontal position. The Dittrich system is a conventional, two-part shock absorbing system similar to those commonly used on automobiles. Notably, a car whose shock absorbers are shot will repeatedly bounce up and down after it hits a bump due to the lack of sufficient dampening from the initial shock or from the spring's response. The Dittrich system works on the same principal. If used alone, coil spring

(55) may be able to provide the force to return the neck to the original position. However, after releasing the goal during a slam dunk, the neck and backboard would bounce up and down for a lengthy period of time until all the energy was absorbed by the spring. Further, if used alone, the shock absorber (56) would dampen the system during a slam dunk, but would leave it hanging at whatever height the player released it at.

Instead of using a conventional two-piece shock absorbing mechanism, the invention of independent claims 1 and 15 includes the subject matter of a single compression gas spring or gas shock, which has the ability to dampen substantially downward shocks to the neck, return the neck to the original position, and/or provide the sole upward force at the distal end of the neck for maintaining it in the original position. This inventive subject matter is not taught or suggested by Dittrich nor would it have been obvious to modify Dittrich as proposed by the Office Action to replace one of its components with a compression gas spring.

Dittrich clearly fails to teach or suggest the inventive subject matter recited in independent claim 1 of “a compression gas spring for absorbing and dampening substantially downward shocks to the neck by permitting movement of the neck from an original position and returning the neck to the original position, the compression gas spring providing the sole upward force at the distal end of the neck for maintaining the neck in the original position.” Further, Dittrich clearly fails to teach or suggest the inventive subject matter recited in independent claim 15 of “a gas shock generally disposed on a rearward side of the mounting post opposite the backboard, the gas shock configured for absorbing and dampening substantially downward shocks to the neck by permitting movement of the neck from an original position, the gas shock providing the sole upward force at the distal end of the neck for maintaining the neck in the original position.”

Neither Stanford nor Dupre overcome these deficiencies of Dittrich nor were they relied upon to do so. For this additional reason, Applicant respectfully submits that independent claims 1 and 15 and claim 5-14, 18-19 and 21-22 depending therefrom, are allowable over the cited prior art.

Conclusion

Based on the foregoing, Applicant respectfully submits that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicant's undersigned representative at the below-listed number.

Respectfully submitted,

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